

COUNCIL

22 FEBRUARY 2018

SHARED HUMAN RESOURCES (HR) SERVICE BETWEEN MEDWAY COUNCIL AND GRAVESHAM BOROUGH COUNCIL

Portfolio Holder: Councillor Adrian Gulvin, Resources

Report from: Richard Hicks, Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive

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Summary

This report sets out proposals that Medway Council assume responsibility for the discharge of Gravesham Borough Council's HR functions. This is permitted under Section 101(1) of the Local Government Act 1972 which allows local authorities to delegate non-executive functions to other local authorities.

This report was considered by the Business Support Overview and Scrutiny Committee on 30 January 2018 and by the Cabinet on 6 February 2018.

1. Budget and Policy Framework

- 1.1 The function of the HR Service is a non-executive function. Medway Council's Constitution provides that a decision to establish joint arrangements with one or more local authorities to exercise non-executive functions is a matter for Full Council (Article 10.2 (a)). In addition, the decision to accept such a delegation of a function from another local authority is also reserved to Full Council (Article 10.4(c)).

2. Background

- 2.1 Medway Council are currently discussing proposed arrangements to establish a shared HR service with Gravesham Borough Council. At the meeting of the Gravesham Borough Council Cabinet on 4 September 2017, Members agreed:

- To approve the progression of a fully shared service with Medway Council for the delivery of the HR Service;
- To delegate authority to the Director (Communities), in consultation with the Director (Corporate Services), the Portfolio Holder for Public Protection and HR, and the Monitoring Officer to take all necessary practical, financial and legal actions required to enable the arrangement to be put in place;
- To provide delegated authority to Medway Council to provide the HR Service on behalf of Gravesham Borough Council, through a shared service arrangement.

2.2 A copy of the Record of Decision from Gravesham's Cabinet is attached as Appendix A.

3. Advice and analysis

3.1 A project group has been established to implement the shared working arrangements, comprising officers from both Council's HR, Legal Services, Finance, and ICT teams. The project group has met on three occasions, with further meetings planned as required. This matter is scheduled to be considered by Medway Council's Cabinet on 6 February 2018. Subject to Cabinet at that meeting recommending to the Medway Full Council to accept the delegation of the HR Services function from Gravesham Borough Council and subject to Full Council on 22 February 2018 accepting that delegation, Gravesham's HR staff are scheduled to transfer under TUPE regulations to Medway Council on 1 April 2018.

3.2 The proposed shared service will take the form of a delegation of a non-executive function from Gravesham's Cabinet to Medway's full Council. It is proposed that Medway's Cabinet recommends to full Council to accept this delegation and further delegate these functions to the Assistant Director Transformation, who will take on the responsibility of delivering HR Services functions for both authorities. The Head of HR Services will continue to deliver Medway's functions and if requested report on the progress of the shared service to the Cabinet and Business Support Overview & Scrutiny Committee and will also deliver Gravesham's functions and report if requested to Gravesham's senior management in a format and frequency to be agreed in the legal agreement between the two authorities.

3.3 A Business Case has been prepared by officers from Gravesham and Medway to provide further information to their respective Cabinets. A copy of the draft Medway Business Case is at Appendix B. to this report. The Medway Business Case may be subject to further change but will be finalised before the matter is considered at Full Council.

3.4 In summary, in recent months, there have been a number of changes within the Gravesham HR Service due to officers within the team being recruited to roles elsewhere in the Council. To help address these

capacity issues, Medway Council have been providing cover for the HR Officer vacancy for two days per week since March 2017 with Gravesham covering the salary costs.

- 3.5 This arrangement ceased mid-2017 to be replaced by Medway Council employing a full-time Senior HR Consultant (equivalent to a Range 6 post) wholly funded by Gravesham Borough Council, with primary responsibility for the delivery of HR activities associated with the Borough Council.
- 3.6 This has proven to be an excellent development opportunity for an existing member of the Medway HR team, and there is an expectation that there will be other professional development routes as a consequence of the shared service.
- 3.7 It was felt that it would be beneficial to implement a full shared service with Medway Council for HR to provide further resilience to the provision of this service at Gravesham Borough Council and provide access to specialist skills across both authorities which could lead to increased efficiency.
- 3.8 Capacity, workloads, work types and expertise within the shared HR team will be thoroughly reviewed and consideration given to the need for a restructure if resources need to be reorganised to meet client demands or to realise savings.

4. Options

- 4.1 **Option 1: Do Nothing.** Each local authority can retain its own separate HR Services teams undertaking work for their own client departments only. This has the advantage of consistency for staff and client departments but does not allow resilience or the potential for savings that could be achieved by sharing resources.
- 4.2 **Option 2: Establish a Shared HR Service with Gravesham Borough Council.** Gravesham's existing staff members would transfer to the employment of Medway Council under TUPE Regulations providing greater resilience and expertise in the team and reduce costs due to economies of scale. Further cost savings may be possible through a future restructure, if considered necessary.

5. Risk management

Risk	Description	Action to avoid or mitigate risk
Either party chooses to terminate the delegation.	Medway Council permanently takes on the responsibility for and costs of providing Gravesham's HR Services functions. Either party may choose to end the shared service or the arrangement fails, leaving Gravesham with no HR service.	Gravesham's formal delegation and decision to share services approved by their Cabinet. A formal legal agreement will be made to include exit arrangements with appropriate notice periods for seeking to vary or terminate the services.
Failure to deliver effective service	The proposed service may fail to deliver an effective shared HR service for Medway and/or Gravesham Councils.	A formal legal agreement will be made to include required outputs and how performance will be measured, monitored and reported.
Staff grievance	Changes to staff terms and conditions may not be introduced appropriately	HR staff from both authorities are involved in the project and are leading on this work-stream.

6. Consultation

- 6.1 As HR Services are "back-office" functions, this change will not impact on the public and so has not been subject to public consultation.
- 6.2 HR staff of both authorities have already been briefed on the overarching proposal and further detail will be shared as the project develops. Gravesham staff that will TUPE to Medway Council will be formally consulted with in line with TUPE regulations and Gravesham's own policies and protocols covering these matters.
- 6.3 The Trade Unions of both authorities have been informed of the proposal and they will be updated as the project develops.

7. Business Support Overview and Scrutiny Committee

- 7.1 The Business Support Overview and Scrutiny Committee considered this report on 30 January 2018. A Member sought clarification on the terms and conditions of employment of staff transferring under TUPE from Gravesham to Medway. It was confirmed that these terms and

conditions would remain aligned to the NJC “Green Book” with pay increases agreed nationally.

7.2 The Committee noted the proposals.

8. Cabinet

8.1 The Cabinet considered this report on 6 February 2018.

8.2 The Cabinet recommended to Full Council that option two set out in paragraph 4.2 of the report be agreed, whereby Medway Council shall assume responsibility for the discharge of Gravesham Borough Council’s HR Services functions under Section 101(1) of the Local Government Act 1972 which allows local authorities to delegate non-executive functions to other local authorities (decision no. 26/2018).

8.3 The Cabinet recommended to Full Council to accept the delegation by Gravesham Borough Council of its HR Services functions to Medway Council (decision no. 27/2018).

8.4 The Cabinet agreed to delegate authority to the Assistant Director - Transformation of Medway Council to enter into a legally binding contract between both local authorities setting out the detail of the arrangements for a fully shared HR Services (decision no. 28/2018).

8.5 The Cabinet agreed to recommend Full Council to delegate authority to Medway’s Assistant Director - Transformation to assume responsibility for the management and delivery of HR services for Gravesham Borough Council jointly with the services provided for Medway Council and for this to be reflected in the Council’s Scheme of Delegation (decision no. 29/2018).

9. Financial Implications

9.1 From 1 April 2018 the HR Services staff in post at Gravesham will transfer to Medway Council’s payroll and be paid from Medway’s salaries budgets, this includes the cost of a Gravesham’s team member’s Maternity pay entitlements and the provision of a Medway team member to act as Maternity cover.

9.2 It is anticipated that the shared service arrangement will deliver some initial savings and further opportunities to realise savings will be explored as the arrangement progresses.

9.3 Once the TUPE Transfer of staff has been completed and officers have been operating in the new structure for a number of months, a review will be undertaken of the structure in order to ensure that all officers are in the correct posts in order to maximise their expertise across the shared working arrangement.

9.4 In setting up any shared working arrangement, there will be some investment/set-up costs in order to ensure the arrangement is effective.

The list below provides a suggestion of the costs that need to be considered, but is not deemed to be exhaustive:

- 9.4.1 IT costs of setting up access to other’s systems, plus potentially new IT equipment to enable better facilities for staff.
- 9.4.2 Property and facilities costs – there may be a need to acquire additional desks and chairs, etc. to ensure that all officers can be accommodated in any one site.
- 9.4.3 It is not anticipated that there will be any redundancy costs at this stage as all officers will be transferred across to Medway Council. However, this may need to be considered moving forward, should a revised structure identify posts that are not required.
- 9.5 The proposed delegation to the Assistant Director, Transformation for the management and delivery of HR services for Gravesham Borough Council jointly with the services provided for Medway Council will be listed under the delegations to the Director Regeneration, Culture, Environment and Transformation and Deputy Chief Executive in the Employee Delegation Scheme, as set out in the Constitution (Chapter 3, Part 4) as follows:

Description of delegation	Responsibility delegated from
8.33 Shared Human Resources (HR) Service <ul style="list-style-type: none"> • Management and delivery of HR services for Gravesham Borough Council jointly with the services provided for Medway Council. 	Council

10. Legal Implications

- 10.1 Section 101(1) of the Local Government Act 1972 allows local authorities to delegate non-executive functions to other local authorities. The Local Authority (Arrangement for the Discharge of Functions) (England) Regulation 2012 made under section 9EA of the Local Government Act 2000 allows local authorities to delegate executive functions to other local authorities. Under the Local Government Act 2000, the default position is that a function is an executive function unless specific provision provides that they are non-executive. The Local Authority (Functions and Responsibilities) (England) Regulations 2000 sets out the specific functions that are non-executive.
- 10.2 Gravesham’s Cabinet delegation of their HR Services functions to Medway Council must be accepted by Medway’s Full Council, and once accepted, Medway will become statutorily responsible for Gravesham’s HR Services functions as though it were its own functions.

- 10.3 The delegation of Gravesham's HR Services functions to Medway will be documented through a legally binding contract, which both parties must agree and sign. The delegation agreement will cover, but is not limited to:
- The scope of HR functions / services to be provided
 - Governance and staffing arrangements
 - Cost sharing
 - Liability, indemnity and insurance
 - Data protection and information governance
 - Exit provisions
- 10.4 The delegation agreement will fall outside the scope of the Public Contracts Regulations 2015 so there is no requirement for Gravesham to tender these services. The delegation agreement will implement a co-operation between Gravesham and Medway with the aim of ensuring that Medway provides HR services they have to perform with a view to achieving objectives they have in common. The delegation will also give Medway an exclusive right by law to provide the services to Gravesham. Such administrative arrangements are expressly exempted from the EU procurement regime (Regulations 11 and 12 (7) of the Public Contracts Regulations 2015).
- 10.5 A structured shared service managed by the Head of HR Services is able to take advantage of support staff and facilities at Gravesham Borough Council through the powers in:
- Section 113 of the Local Government Act 1972 which allows local authorities to place officers at the disposal of other local authorities; and
 - The Local Authorities (Goods and Services) Act 1970 which allows local authorities to make arrangements with each other for the provision of goods, administrative, professional or technical services and vehicle, plant or apparatus.

11. Recommendations

- 11.1 Council is asked to agree option two, set out in paragraph 4.2 of the report, whereby Medway Council shall assume responsibility for the discharge of Gravesham Borough Council's HR Services functions under Section 101(1) of the Local Government Act 1972 which allows local authorities to delegate non-executive functions to other local authorities.
- 11.2 Council is asked to agree to accept the delegation by Gravesham Borough Council of its HR Services functions to Medway Council.
- 11.3 Council is asked to agree to delegate authority to Medway's Assistant Director - Transformation to assume responsibility for the management and delivery of HR services for Gravesham Borough Council jointly with the services provided for Medway Council and for this to be reflected in

the Council's Scheme of Delegation, as set out in paragraph 9.5 of the report.

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Appendices

Appendix A - An extract from the minutes of a Gravesham Borough Council
Cabinet meeting held on 4 September 2017.
Appendix B - Medway Council draft Business Case

Background Papers:

None

**Extract from the minutes of a Gravesham Borough Council
Cabinet meeting held on 4 September 2017.**

RECORD OF DECISION: EXECUTIVE FUNCTIONS

Decision No: 23/C/2017

Decision taken by: Cabinet

Date: 04 September 2017

Topic: Development of a shared service for the delivery of HR Services

It was agreed:

That Members approve the progression of a fully shared service with Medway Council for the delivery of the HR Service.

Delegated authority be given to the Director (Communities), in consultation with the Director (Corporate Services), the Portfolio Holder for Public Protection and HR, and the Monitoring Officer to take all necessary practical, financial and legal actions required to enable the arrangement to be put in place.

Members also agreed to provide delegated authority to Medway Council to provide the HR Service on behalf of Gravesham Borough Council, through a shared service arrangement.

REASON/S FOR THE DECISION:

In recent months, there have been a number of changes within the Gravesham HR Service due to officers within the team being recruited to roles elsewhere in the council. To help address these capacity issues, Medway Council have been providing cover for the Senior HR Officer vacancy for two days per week since March 2017, with this arrangement more recently replaced by Medway Council employing a full-time HR Business Partner funded by Gravesham Borough Council, responsible solely for working of HR activities associated with the Borough Council.

It was felt that it would be beneficial to implement a full shared service with Medway Council for HR to provide further resilience to the provision of this service at Gravesham Borough Council, provide access to specialist skills across both authorities leading to increased efficiency and to potentially expand the knowledge base of individual officers through greater training and learning opportunities. In addition, there may be financial benefits although further detailed analysis is required.

Shared Services Business Case

Medway Council and Gravesham Borough Council HR Services

Author: Tim Silver, Acting Head of HR Services

Date: 13 January 2018

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1. Introduction and Strategic Requirements of the Service

1.1 Scope for shared service/joint working arrangements

The HR Service at Medway Council comprises HR Business Partner, HR Support, Resourcing, Workforce Development, Health & Safety, HR Systems and Employee Engagement teams with a staffing establishment of 42.85 FTE. The Gravesham HR Team has a staffing establishment of 4 FTE.

1.1.1 Officers from both teams have already developed a strong working relationship as during 2017 Medway has provided interim support to the Gravesham team on a two days a week basis. This arrangement has now developed whereby Medway employee a Senior HR Consultant to provide a full-time support to the Gravesham team with Gravesham funding this post.

1.1.2 The Payroll and Pensions team who currently sit within the Medway HR team will move to the Medway Finance Team on 1 April 2018 and are therefore not included in this shared service proposal, although the Medway Payroll team provide a Payroll service to Gravesham Borough Council under a paid-for service arrangement.

1.2 Potential stakeholders/partners

The employees and Elected Members of Medway Council and Gravesham Borough Council.

1.3 Current service provision arrangements of potential stakeholders/partners

The current services are operated in-house with Team Leaders within the respective HR functions as detailed at 1.1 reporting to a HR Head of Service who in turn has a reporting line to the Assistant Director – Transformation.

1.4 Contribution to key council objectives

The HR teams of both authorities are key services and support the delivery of all of the council's objectives in ensuring that they meet all statutory and legal HR requirements.

1.5 Statutory Obligations

The operation of the HR Service is governed by an overarching suite of employment legislation that regulates the relationship between the Council and its employees and workers.

The HR Service further informs and provides data to other Departments within the Council who have their own statutory compliance requirements.

2. Strategic and Operational Benefits of Joint Working

2.1 Strategic Benefits

Benefit	Measure
Improved service resilience in times of need, i.e. staff shortages due to vacant posts or staff sickness.	Sustain and/or improve performance delivery of the service.
Provide greater opportunity for HR team members to broaden their knowledge and experience.	Increase HR knowledge base and improve the professional development offer.
Sharing of best practice.	Opportunity to benchmark and improve policies and procedures.
Gain knowledge and expertise in the delivery of an HR shared service.	Shape the HR service to be able to absorb other HR services.

3. Constraints and Dependencies

3.1 Constraints to the project progressing

- **Organisational Constraints**

- Agreement between the two councils on the viability of a shared service arrangement.
- Agreement between the two councils on the scope/type of shared service arrangement.
- Agreement by the Members at the two councils for the progression of a shared service arrangement.
- Legal requirements/obligations that may need to be met by progressing any particular option.

- **Resource Constraints**

- Officers from both HR teams have been engaged during the project planning stage and those officers who will transfer their employment from Gravesham to Medway under TUPE have not raised any objections to this change in the employer
- Staff currently located at Gravesend and Medway may be required to travel to a different office, but this is not expected to be significant as there will be an HR presence maintained at Gravesham with their existing HR team members. Medway staff will only need to visit the Gravesham officers for cover purposes of meetings.

- **Time Constraints**

- The proposed implementation date is 1 April 2018.

3.2 Dependencies for the project progressing

- Access to each authority's back office IT systems at both sites.
- Ensuring there is no adverse impact on customers at either authority
- Good communication of the changes that are being made at both authorities to all customers.
- Good communication of project milestones, targets and issues that may affect viability/timing of the achievement of this project to all key project officers, senior managers involved and officers within existing teams at both authorities.

4. Legal and Constitutional/Governance Issues

- 4.1 The partnership/joint-working arrangement will be made pursuant to section 113 of the Local Government Act 1972, which allows a local authority to place any of its officers, who consent to the arrangement, at the disposal of another local authority on such terms as may be agreed between the parties.
- 4.2 Gravesham Borough Council's Cabinet have agreed that delegated authority be given to Medway Council to provide the HR Service on their behalf.
- 4.3 Medway Council's constitution requires that the decision to accept a delegation of a function from another local authority is a matter for full Council meeting (Article 10(C) of the constitution).
- 4.4 This matter will go to Medway's Cabinet on 6 February 2018 with a recommendation to Full Council on 22 February 2018 that they accept the delegation from Gravesham.

5. Equalities Impact Assessment

- 5.1 It is anticipated that there will be no impact on customers of the service in terms of equalities with the development of the shared service.
- 5.2 Any equalities issues affecting any officers who will form part of the new shared service will be taken into account in the implementation phase, prior to any TUPE transfer commencing. A formal consultation will be undertaken with all officers affected by the change prior to its implementation and any equality issues will be identified at this stage.

6. Risks

6.1 'Do Nothing' Risks – if there is no change to existing arrangements

Risk identified	Action to mitigate risk
No risk to Medway Council	N/A

7. Existing Working Arrangements

7.1 Departmental Structures

7.1.1 The current Medway HR structure is shown at Appendix 1.

7.1.2 The current Gravesham HR structure is shown at Appendix 2.

7.1.3 The proposed Medway/Gravesham HR Shared Service structure is shown at Appendix 3, with the additional Gravesham team highlighted in yellow.

7.2 Summary of arrangements –

	Gravesham	Medway
Salary costs (excluding on costs) 2017-18	Total: £141,050	Total: £1.3ml
Staff numbers (FTE)	Total: 4 FTE	Total: 42.85 FTE
Scope of Service	<ul style="list-style-type: none">• Employee Relations• Workforce Development• Resourcing	<ul style="list-style-type: none">• See 1.1

8. Cost/Benefit Evaluation of Options and Recommendation

8.1 As detailed earlier in the business case at 1.1.1 recognising the current level of support that Medway have provided and continue to provide to Gravesham, it is a natural progression to implement a full shared service arrangement.

8.2 The budget for the salaries of the staff transferring under TUPE from Gravesham to Medway will be charged to Gravesham. Gravesham's terms and conditions of employment are aligned to the NJC "Green Book" and their pay increases are nationally agreed, the difference between any MedPay pay award and the NJC pay award will be charged back to Gravesham

8.3 Should a member of the transferring Gravesham staff cohort leave our employ, any new member of staff will be engaged on Medway terms and conditions of employment.

8.4 The experience gained by Medway in the running of a shared HR service with a partner that we have already developed close working relationships with will bring a unique selling point in offering a similar shared service arrangement with other authorities.

9. High-level options

9.1 Option 1 – TUPE transfer of all Gravesham Borough Council staff to Medway council

Project	Responsible Lead	Other Stakeholders	Implementation options
To TUPE transfer current GBC HR officers to Medway Council to form one shared pool of officers.	Medway Council: Carrie McKenzie – Assistant Director (Transformation) Gravesham Borough Council: Melanie Norris – Director (Communities)	All members of the HR Services teams at both authorities.	Proposed implementation date of 1 April 2018

9.2 Investment/set-up costs

In setting up any shared working arrangement, there will be some investment/set-up costs in order to ensure the arrangement is effective. The list below provides an outline of the areas of work that may incur costs, these costs are not yet fully developed but they are not expected to be prohibitive to the project delivery:

- IT costs of setting up joint access to non-common bespoke HR systems;
- Property and facilities costs – there may be a need to acquire additional desks and chairs etc. to ensure that all officers can be accommodated in any one site.

9.2.1 Additional on-going operational costs

They are likely to be additional mileage claims as officer's travel between the two sites for meetings and for cover purposes as required. However, this is not anticipated to generate significant costs and officers will be encouraged to use remote video conferencing and car pool etc. to limit the amount of travel required.